



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JUN 17 2011

Colonel Jeffery R. Eckstein
District Engineer
U.S. Army Corps of Engineers
Attn: CEMVK-OD-F
4155 Clay Street
Vicksburg, MS 39183-3435

Re: Clean Water Act Public Notice MVK-2010-1611

Dear Colonel Eckstein:

The Environmental Protection Agency (EPA) has reviewed the Public Notice (PN) concerning Department of the Army Permit Application Number MVK-2010-1611, submitted for Mr. Jackson B. Davis. The comments provided here are within the EPA's responsibilities associated with the Clean Water Act (CWA) Section 404 and the National Environmental Policy Act.

The PN describes construction of dam for the creation of a lake for farming and recreation. The dam would result in impoundment of waters of the United States over an area of up to 130 acres. It appears from a search of aerial photography that the dam would be placed on the Sylvest Creek, with its flows eventually reaching the Bayou Pierre and then, the Red River. The EPA considers these waters to be significant waters of the United States.

The PN also describes the soils of the area as Guyton and Luka, which are described in the DeSoto Parish Soil Survey as Hydric soils. Hydric soils indicate the likely presence of wet land. However, no official jurisdictional determination by the COE is included in the PN.

It appears the dam creation (footprint) would directly impact some 0.04 acres in the stream. Some 9,000 linear feet of stream would be inundated and some 200 linear feet of stream would be filled for a total stream loss of 9,200 feet.

Compliance with the CWA 404 (b)(1) Guidelines requires justification for the "need" for a project that is proposed. No justification is provided for this proposal. A general statement about farming and recreation is made in the PN, however a search of aerial photography discloses no farming operation. We also question why a recreational lake of 130 acres, eight feet deep, would be considered for a remote area such as this.

The EPA has numerous concerns regarding this proposal. We are concerned with the adverse impacts on downstream hydrology and reduction of flow that is expected.

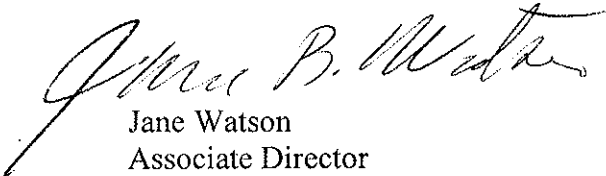
Fragmentation of the aquatic habitat would be expected to result in fisheries impacts with possible change in species above and below the dam. Alterations to the natural stream would also affect wildlife habit and use. The project, if permitted, would add to the many other cumulative effects of alterations to surface waters and ground water of the U.S. that are occurring in DeSoto Parish. Also, the shallow lake would provide for evaporative loss of water in addition to the heavy use by industry in this parish.

The intended use of this proposed project should be investigated thoroughly. Due to its proposed location in near vicinity of several shale gas pads and operations, it has potential to be used for impounding waters to be sold for fracking water to the several nearby gas wells. Since this appears to be a possibility, we point out that water supply for such use is not dependent on having water from a free-flowing stream impounded as there are alternatives, such as trucking in water, which is being done for many gas wells. The applicant should be required to provide a detailed justification and alternatives analysis. Only the least environmentally damaging practicable alternative can be considered for permitting for a proposal that complies with the Guidelines.

Based on our concerns regarding compliance of this proposal with the Guidelines and that the project may result in substantial and unacceptable impacts on aquatic resources of national importance (pursuant to Part IV.3(a) of the 1992 Memorandum of Agreement between the EPA and the Department of the Army, relative to the Section 404(q) of the Clean Water Act, we request that a permit be for the project be denied .

Thank you for the opportunity to comment on the proposed activity. If you have questions, please contact Ms. Jeanene Peckham of my staff at (214) 665-6411.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Jane B. Watson", is written over the typed name.

Jane Watson
Associate Director
Ecosystems Protection Branch